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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,719	02/08/2001	Edward G. Tiedemann JR.	PA792D1	5285

23696 7590 09/13/2006  
QUALCOMM INCORPORATED  
5775 MOREHOUSE DR.  
SAN DIEGO, CA 92121

EXAMINER
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NGUYEN, TOAN D

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 09/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/779,719

Applicant(s)

TIEDEMANN ET AL.

Examiner

Toan D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/8/01</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. Claims 1-14 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a specific asserted utility or a well established utility.

In claim 1, the recited limitations "intentionally", "a first symbol energy amount that is insufficient", "retransmitting the traffic information initially", and "a further symbol energy amount that is also insufficient by itself" are not supported by either specific assert utility or a well establish. There are no specific amounts of symbol energy for correct demodulation by the mobile station. Note, because the claimed invention is not support by a specific assert utility for the reasons set forth above, credibility cannot be accessed. Similar problems exist in claims 12-14.

Claims 1-14 also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a specific asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Cao et al. (EP 0913957).

For claims 1-11, Cao et al. disclose power control for mobile wireless communication system, comprising the steps of:

(A) intentionally transmitting traffic information from the base station (figure 1, reference 13) with a first symbol energy amount that is insufficient for correct demodulation of the traffic information by a mobile station (figure 1, reference Mobile Station 1); and

(B) after step (A), retransmitting the traffic information initially transmitted with the first symbol energy amount from the base station to the mobile station, wherein the traffic information is retransmitted in step (B) with a further symbol energy amount that is also insufficient by itself for correct demodulation of the traffic information by the mobile station (col. 1, paragraph [0002]).

For claim 12, Cao et al. disclose power control for mobile wireless communication system, comprising the steps of:

(A) a power allocation unit at the base station controller that selects a first symbol energy amount for transmitting traffic information from the base station transceiver to the mobile station, wherein the first symbol energy amount is insufficient for correct demodulation of the traffic information by the mobile station, and the power allocation unit selects a further symbol energy amount for re-transmitting the traffic information from the base station transceiver to the mobile station, wherein the further symbol

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energy amount is also insufficient by itself for correct demodulation of the traffic information by the mobile station;

(B) a base station transmitter that initially transmits the traffic information from the base station transceiver to the mobile station at the first symbol energy amount and subsequently transmits the traffic information from the base station transceiver to the mobile station at the further symbol energy amount (col. 1, paragraph [0002]).

For claim 13, Cao et al. disclose power control for mobile wireless communication system, comprising the steps of:

(A) a power allocation unit at the base station that selects a first symbol energy amount for transmitting traffic information from the base station to the mobile station, wherein the first symbol energy amount is insufficient for correct demodulation of the traffic information by the mobile station, and the power allocation unit selects a further symbol energy amount for re-transmitting the traffic information from the base station to the mobile station, wherein the further symbol energy amount is also insufficient by itself for correct demodulation of the traffic information by the mobile station; and

(B) a base station transmitter that initially transmits the traffic information from the base station to the mobile station at the first symbol energy amount and subsequently transmits the traffic information from the base station to the mobile station at the further symbol energy amount (col. 1, paragraph [0002]).

For claim 14, Cao et al. disclose power control for mobile wireless communication system, comprising the steps of:

(A) means for intentionally transmitting traffic information from the base station with a first symbol energy amount that is insufficient for correct demodulation of the traffic information by a mobile station; and

(B) means for re-transmitting the traffic information with a further symbol energy amount that is also insufficient by itself for correct demodulation of the traffic information by the mobile station (col. 1, paragraph [0002]).

***Response to Arguments***

4. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

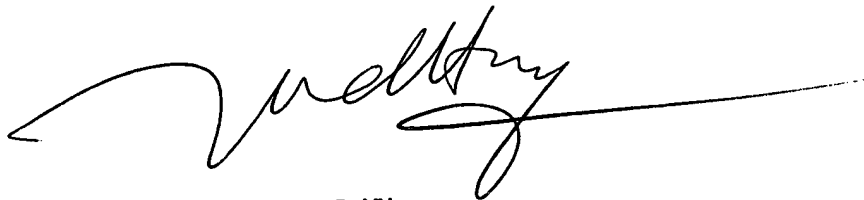
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan D. Nguyen whose telephone number is 571-272-3153. The examiner can normally be reached on M-F (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Huy Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TN  
TN

A handwritten signature in black ink, appearing to read 'Huy D. Vu', with a long horizontal line extending to the right.

**HUY D. VU**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**